

### **Remarks and Arguments**

Claims 20, 21, 23, 84, 85, 87 and 92 have been rejected under the judicially-created doctrine of obviousness-type double patenting. In response, a terminal disclaimer is attached hereto. This application no. 09/745,395 and co-pending application no. 09/393,405, now U.S. Patent No. 7,130,831, were, at the time that the invention of this application no 09/745,395 was made, owned by the Copyright Clearance Center, Danvers, Ma. Accordingly, the rejection under the judicially-created doctrine of obviousness-type double patenting is hereby respectfully traversed.

Claim 20 has been objected to for the use of the word "non-ephemeral" in line 8 and the use of the word "if" in line 6. In response, the word "non-ephemeral" has been replaced by "selected" and the word "if" has been replaced by the word "when." It is believed that these amendments place claim 20 in proper condition.

In light of the forgoing amendments and remarks, this application is now believed in condition for allowance and a notice of allowance is earnestly solicited. If the examiner has any further questions regarding this amendment, he is invited to call applicants' attorney at the number listed below. The examiner is hereby authorized to charge any fees or direct any payment under 37 C.F.R. §§1.17, 1.16 to Deposit Account number 50-3969.

Respectfully submitted

/paul e. kudirka/  
Paul E. Kudirka, Esq. Reg. No. 26,931  
LAW OFFICES OF PAUL E. KUDIRKA  
Customer Number 64967  
Tel: (617) 357-0010 Fax: (617) 357-0035

Date: 2006-12-05